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RULES CLEARINGHOUSE

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CLEARINGHOUSE RULE 96-095

Comments

[NOTE: All citations to “Manual” in the comments below are to the Administrative Rules Procedures Manual, prepared by the Revisor of Statutes Bureau and the Legislative Council Staff, dated October 1994.]

1. Statutory Authority

a. Section 446.02 (7m) (a), Stats., as created by 1995 Wisconsin Act 94, provides in part that a chiropractor must create and maintain a patient record for every patient the chiropractor examines or treats. In contrast, s. Chir 11.02 (1) provides in part that when a chiropractor or peer review committee conducts an examination or evaluation of, or makes a recommendation regarding, a claim for insurance coverage, the chiropractor or peer review committee must create and maintain complete and comprehensive patient records for the patient whose claim is under review. The statute clearly requires that a chiropractor who actually examines or treats a patient must create an appropriate patient record. What statutory authority exists for additionally requiring that a chiropractor or a peer review committee create a patient record when reviewing an insurer's restriction or termination of a patient's coverage?

b. Section 632.875 (2), Stats., as created by 1995 Wisconsin Act 94, requires that an insurer that restricts or terminates a patient's coverage following an independent evaluation must provide a written statement to the patient and to the treating chiropractor. The statutorily required written statement must contain eight specified components. These components do not include the name of the chiropractor or the names of the peer review committee's members conducting the independent evaluation. However, s. Chir 11.05 provides that, in the case of an independent evaluation that restricts or terminates insurance coverage, the evaluating chiropractor or peer review committee must notify the treating chiropractor of the name of the evaluating chiropractor or the names of the peer review committee's members. What statutory authority exists for this provision, given the specificity of s. 632.875 (2), Stats.?

4. Adequacy of References to Related Statutes, Rules and Forms

In s. Chir 11.02 (1), it appears that the citation of s. Chir 6.02 (27) is incorrect.

5. Clarity, Grammar, Punctuation and Use of Plain Language

a. In s. Chir 11.01, it would be clearer to cite s. 146.81 (4), Stats., than ch. 146, Stats.

b. In s. Chir 11.02 (1), the final comma should be replaced by the word “or.” [See, also, s. Chir 11.05 for the same problem.] Also, this provision states that a patient record must be created and maintained by a chiropractor for every patient with whom the chiropractor consults, examines and treats. Section 446.02 (7m) (a), Stats., as created by 1995 Wisconsin Act 94, limits this requirement to a situation in which a chiropractor examines or treats a patient. The statute does not use the word “consults.” What is the meaning of the word “consults” in this context? If the word means the same as the terms “examines” and “treats,” then it is not necessary and should be deleted in order to avoid confusion with the statutory language. If the use of the term is intended to mean something in addition to “examines” and “treats,” a definition of the term would be appropriate as would an explanation of the statutory authority for including the additional meaning.

c. In s. Chir 11.02 (3), reference is made to the preparation of patient records as otherwise required by law. The phrase “as otherwise required by law” either should be replaced by, or supplemented with, appropriate citations to the statutes or the Administrative Code, if possible.

d. In s. Chir 11.02 (6), “in” should be inserted after “documented.”

e. In s. Chir 11.03 (1) (c), it appears that the phrase “Date of” should be inserted before “Onset.”

f. In s. Chir 11.03 (3), it appears that the final comma should be replaced by the word “and.”